UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

UNITED STATES OF AMERICA,	§	
	§	
Plaintiff.	§	
	§	
v.	§	**CRIMINAL NO. 1:17-mj-00305 (ML)**
	§	
STEVEN THOMAS BOEHLE,	§	
	§	
Defendant.	§	
	§	

UNITED STATES' MOTION FOR REVIEW OF MAGISTRATE'S RELEASE ORDER

TO THE HONORABLE JUDGE OF SAID COURT:

Comes now the United States Attorney for the Western District of Texas, by and through the undersigned Assistant United States Attorney, and files this Notice of Appeal and Motion to Stay Magistrate Judge's Order Setting Conditions of Release (Doc No. 22).

At the time of the Defendant's initial appearance on April 17, 2017, the United States moved to detain the Defendant as both a risk of flight and a danger to the community. The Magistrate Judge conducted a hearing on April 20, 2017, which was continued until May 1, 2017. Evidence was presented on both of these dates. After the conclusion of the hearing, the Magistrate Judge ruled that the United States demonstrated probable cause to believe that the Defendant committed the felony offense of being a prohibited person in possession of a firearm, in violation of Title 18, United States Code, Section 922(g)(3). The Magistrate Judge then ruled that Defendant should be released on conditions, which were set forth at the hearing.

The United States hereby gives written notice of appeal of the Magistrate Judge's order setting conditions of release and moves for a stay of that order pending this appeal.

Although the United States has great respect for the Magistrate Judge and his decision, the Government respectfully disagrees with the conclusion that the conditions set for the Defendant's bond will assure the future appearance of the Defendant and/or ensure the safety of the community. The government's evidence of the offense charged against the Defendant is very strong, and if convicted, the Defendant faces a sentence of up to ten (10) years imprisonment. In summary, as set forth in the Amended Criminal Complaint, the evidence presented at the hearing demonstrates that the Defendant threatened to conduct a violent attack on his birthday, April 13, 2017. Evidence presented at the preliminary and detention hearings included thirty-four exhibits, to include a document/note (Gov't Ex. #s 16 & 17) which was taped to the front door of the apartment in which the Defendant was residing. The document includes references to the next day (the Defendant's birthday) and, among many other things, states "Die Mother Fuckers…" The rest of the document is both bizarre and disturbing and references, among other things, certain government officials. At the time of the Defendant's arrest, three (3) pistols and over a thousand rounds of ammunition were recovered from a closet in which he kept his belongings. An additional ten (10) long guns (rifles and shotguns) were recovered when the FBI conducted a search of a storage unit leased by the Defendant on April 14, 2017. Evidence presented at the hearing also established that the Defendant attempted to purchase firearms on at least three occasions, but was prevented from doing so by the National Instant Criminal Background Check System (NICS). Finally, during his initial appearance, the Defendant indicated his belief that federal law, which he referred to as "code," does not apply to him.

In summary, an application of the unique facts and circumstances of this case to the factors set forth in Title 18, United States Code, § 3142 supports a finding that no condition or combination of conditions would reasonably assure the presence of the Defendant at future proceedings or the safety of the community. Additional information was presented at the detention hearing, and will be presented when the District Court conducts its *de novo* review.

The United States therefore respectfully requests a review and revocation of the Magistrate Judge's bond determination in the instant case, pursuant to 18 U.S.C. 3145(a), which provides that a release order may be reviewed:

> [i]f a person is ordered released by a magistrate judge, or by a person other than a judge of a court having original jurisdiction over the offense....
>
> (1) the attorney for the Government may file, with the court having original jurisdiction over the offense, a motion for revocation of the order...of the conditions of release....
>
> The motion shall be determined promptly.

The United States will immediately order a transcription of the proceedings and will immediately upon the receipt of the transcript prepare a Brief in support of its Motion for Review and Revocation of the bond determination to permit this Court an opportunity for a full and fair review of the bond determination at issue.

The United States respectfully requests that this Honorable Court enter an immediate stay of the execution of the bond, to prevent the Defendant's release on bond pending a full and fair review by this Court. Because the Defendant poses a danger to the community and a risk of flight, only a stay of the execution of the release order would protect the *status quo* and ensure that the Defendant does not endanger the community prior to a review of the Magistrate Judge's decision by this Court.

WHEREFORE, PREMISES CONSIDERED, the Government respectfully moves for a review and revocation of the Magistrate Judge's bond determination and denial of the government's motion for detention without bond under Title 18, United States Code, § 3145(a). Further, the Government respectfully prays this Court will stay the proceedings releasing the Defendant on bond or the execution of the Magistrate Judge's release order during the pendency of this review.

Respectfully submitted,

RICHARD L. DURBIN, JR.
United States Attorney

By: /s/ *Gregg N. Sofer*
____
GREGG N. SOFER
Assistant United States Attorney

CERTIFICATE OF SERVICE

I hereby certify that on May 1, 2017, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system, which will send notification of such filing to the following:

David Peterson, Esq.
504 Lavaca Street, Suite 960
Austin, Texas 78701-2860
Attorney for Defendant

/s/ *Gregg N. Sofer*
____
GREGG N. SOFER
Assistant United States Attorney

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ORDER

Came on to be considered the United States' Notice of Appeal and Motion to Stay Magistrate Judge's Order Setting Conditions of Release, and the Court, having considered same, finds said motion meritorious. Accordingly,

IT IS ORDERED that the United States' notice and motion be GRANTED and that Defendant STEVEN THOMAS BOEHLE be DETAINED in the custody of the United States Marshal pending further order of the Court.

SIGNED on this _______ day of ___________________, 2017.

____
UNITED STATES DISTRICT JUDGE